

FACTFINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

May 27, 1997

In the Matter of :

City of Toledo )

and )

Teamsters Local 20 )

Case No. 96-MED-09-0853

APPEARANCES

For the City

James Sciarini, Attorney  
James Burkhardt, Senior Attorney  
Robert L. Johnson, Manager,  
Employee Relations  
Steve Hamilton, Commissioner,  
Div. of Solid Waste

Robert Stevenson, Commissioner,  
Treatment Services  
Tony Washington, Senior Employee  
Relations Specialist  
Frank Sosko, Div. of Solid Waste

For the Union

Jeffrey Julius, Attorney  
Terry A. Barron, Business Representative  
Ken Jarzeboski, Chief Steward  
Frank J. Perry, Solid Waste Dept.  
Gary Nidek, Water Reclamation Dept.  
Gary P. McGibbeny, Steward

John Fischbach, Chief Steward  
Gregory Kneller, Chief Steward  
Earl Miller, Steward  
Nanette Austin, Solid Waste Dept.  
Michael D. Snyder, Steward  
David Munoz, Steward

Factfinder

Nels E. Nelson

## BACKGROUND

The instant dispute involves the City of Toledo and Teamsters Local 20 which represents 158 employees in the Division of Solid Waste, 78 employees in the Division of Water Reclamation, and 12 employees at the Landfill. Employees in the Division of Solid Waste and the Landfill are paid from the general fund and employees in the Division of Water Reclamation are paid from the public utilities fund.

Negotiations for an agreement to replace the one expiring December 31, 1996 began in the fall of 1996. When no agreement was reached, the Factfinder was appointed on November 29, 1996. The parties agreed that the Factfinder should attempt to resolve at least some of the 105 outstanding issues. On March 26 and 27, 1997 the Factfinder met with the parties and after a total of 24 hours of mediation, 84 issues were resolved. Nine hours of additional mediation resulted in the resolution of a number of additional issues.

A factfinding hearing was held on April 18, 1997. At that time testimony and evidence was presented regarding the 16 unresolved issues. On May 2, 1997 the Factfinder informed the parties that due to the number and complexity of issues the report would not be delayed. On May 27, 1997 the report was mailed.

The recommendations of the Factfinder are based upon the criteria set forth in Section 4117-9-05(k) of the Ohio Administrative Rules. They are:

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (d) The lawful authority of the public employer;
- (e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

## ISSUES

A total of 16 issues were submitted to the Factfinder. The parties agreed that in order to expedite the process and in view of the large number of issues and lengthy discussion of the issues during mediation, it was unnecessary for the Factfinder to produce an extensive report. For each issue, therefore, the Factfinder will summarize briefly the current contract language and the positions of the parties and then offer an abbreviated rationale for his recommendation. Where appropriate, suggested contract language is provided.

1) Section 2121.02 - Classifications - The current contract lists each of the bargaining unit classifications and the salary group to which it is assigned. It also sets forth a procedure for resolving disputes over whether a particular position is included in the appropriate salary group.

Union Position - The union demands that several classifications be upgraded. It asks that all classifications at Water Reclamation be upgraded one salary group but that Senior Water Reclamation Maintenance Worker be reclassified to Journeyman Maintenance Worker at salary group 8, that all Water Reclamation Maintenance Workers be made Journeyman Maintenance Workers at salary group 8 and Tandem Truck Driver and Landfill Equipment Operator be upgraded. The union offered comparable data in support of these demands.

City Position - The city wishes to retain current contract language.

Analysis - The Factfinder cannot recommend the changes sought by the union. First, the requested upgrades result in an immediate increase of \$2.33 per hour for some employees and lesser amounts for other employees. This is a substantial increase in wages

given the other economic items being sought by the union. Second, the Factfinder feels that recommending the upgrades would undermine the compensation system in the city and the negotiated process for resolving disputes over the assignment of classifications to salary groups.

**Recommendation** - The Factfinder recommends current contract language.

2) **Section 2121.13 - Union Release Time** - The current contract provides for release time for stewards, officers, and chief stewards. Subsection (a) grants stewards and officers reasonable time to investigate grievances and conduct other business. Subsections (b) and (c) and related practices establish release time for the chief stewards in the Divisions of Water Reclamation and Solid Waste, respectively.

**City Position** - The city demands three changes. First, it wishes to modify Subsection (a) so that stewards and officers will not be granted release time if it interferes with operations. Second, the city proposes modifying language and practice regarding release time for chief stewards. Third, it wishes to require the chief stewards to submit on a daily basis a mileage and destination log.

**Union Position** - The union seeks to retain the current contract language and practices.

**Analysis** - The Factfinder cannot recommend the city's position. While he agrees that released time for union business should not interfere with operations, there was no evidence that such has occurred in the past. The maintenance and submission of a mileage and destination log on a daily basis appears unnecessary and could become nothing more than a time-consuming exercise. The Factfinder, however, recommends that the Chief Stewards be required to submit on a weekly basis a record of their daily activities.

**Recommendation** - The Factfinder recommends current contract language with the addition of the following new section:

Chief Stewards for Water Reclamation and Solid Waste shall keep a log of their daily activities. The logs shall reflect each place the union stewards perform union business each day during regular hours and the time spent at each such location and shall be submitted to their respective divisions on a weekly basis.

3) Section 2121.50 - Personal Leave of More Than Thirty (30)

Calendar Days, Subsection (b) - The current contract provides that an employee on injury leave is entitled to return to his/her position when he/she is able to work provided he/she is in the city Injury Pay Program as set forth in Section 2121.96.

Union Position - The union proposes eliminating the requirement that an employee on industrial injury leave must be in the city's Injury Pay Program in order to return to his or her job.

City Position - The city seeks to retain current contract language.

Analysis - The Factfinder must recommend that the union's demand be denied. As will be indicated below, he will also reject the union's request that the city's Injury Pay Program be eliminated. The Factfinder believes that with some modifications the Program can serve the interests of both employees and the city. The guarantee that an employee can return to his or her job is a strong incentive to participate in the program.

Recommendation - The Factfinder recommends that the current contract language be retained.

4) Section 2121.53 - Maternity Leave and Pay, Section (a) - The current contract provides that an employee on maternity leave can use any accumulated sick leave or leave without pay.

Union Position - The union proposes two alternatives. First, it demands that the city replace the current health insurance with Teamster Local 20 Plan No. 9, Tier II which provides sick and accident benefits for pregnant employees. Second, the union proposes that pregnant employees be assigned light-duty work.

City Position - The city wishes to retain the current contract language.

Analysis - As discussed below, the Factfinder will recommend that the union's demand to join the Teamster Local 20 Plan No. 9, Tier II be accepted. This makes it unnecessary to change the language in Section 2121.53, Section (a).

Recommendation - The Factfinder recommends current contract language.

5) Section 2121.96 - Injury Pay - The current contract establishes a city Injury Pay Program supervised by a Program Physician.

Union Position - The union proposes eliminating the city's program. It argues that the city should return to its prior injury pay program. The union wishes to require the city to follow an employee's medical provider's recommendations concerning light-duty work, to restrict light-duty assignments to the bargaining unit, to limit light-duty work to 30 days, and to mandate the retention of an employee who reaches maximum medical improvement for six months.

The union maintains that the prior program was essentially the same program as in the other major cities in Ohio. The union complains that the new program has resulted in a number of problems and grievances. It charges that the city doctor gets into issues not related to employees' injuries and that employees are required to see the city doctor over and over. The union claims that there is no need for the city program because Workers' Compensation now has managed care.

City Position - The city proposes retaining the current contract language except it would make clear that when an employee's physician and the Program Physician disagree "over any of the issues," a third opinion will be obtained. The city maintains that the Injury Pay Program was overhauled in 1993 because of rapidly rising workers' compensation costs. It points out that under its program an employee is evaluated immediately by the Program Physician who establishes a diagnosis, prognosis, and rehabilitation program. The city notes that if the employee is able to work, he or she is

assigned light-duty work and if not, is granted up to 60 days of pay. It indicates that an employee can use his or her personal doctor and any conflict with the Program Physician is resolved by a third doctor.

**Analysis** - The Factfinder must recommend that the current contract language be retained with the one change suggested by the city. This program is in effect for all other bargaining units in the city. The data presented by the city indicate that the number of days lost due to injuries has declined substantially under the program. The thrust of the program to encourage employees to be as active as their conditions allow is consistent with current treatment philosophies. Furthermore, it is not surprising that there are some complaints regarding the program since a certain number of complaints appear to be inevitable in the administration of such programs. The small change in contract language proposed by the city was suggested by the Factfinder to provide broader protection to the interests of injured employees.

**Recommendation** - The Factfinder recommends current contract language except that paragraph (d) should read as follows:

If the opinion of the employee's treating physician conflicts with that of the Program Physician over any of the issues and such opinion is presented to the City in seven (7) calendar days of the Program Physician's evaluation, and if the physicians cannot agree after consultation, the employee will be referred for a third opinion. The Cost Containment Committee referenced below will establish a panel of occupational health specialists for third opinions. The third opinion shall be determinative of the employee's injury pay status under the contract and shall not be subject to further appeal or review. If the third opinion is consistent with the Program Physician's plan and the employee fails to abide by the rehabilitation plan, or the employee enters and later drops out of the plan, then the city can recoup injury pay advanced from the employee's sick time accumulation. If the employee does not have sufficient sick time balance, the City shall recoup the injury pay by reducing future sick leave earnings by one-half until the injury pay is fully recouped.

6) Section 2121.99 - Hospitalization - Prescriptive Drug - Dental

Insurance - The current contract provides for health insurance through a consortium that contracts directly with providers. It also creates a Cost Containment Committee to develop cost containment measures. The committee includes representatives of various bargaining units and the city.

Union Position - The union wishes to change its health insurance to the Teamsters Local 20 Insurance, Health, and Welfare Trust Plan 9, Tier II. It points out that it was included in this plan until the last contract. The union complains that it was misled when it was told during negotiations that the new plan would be equal or better. It indicates that there have been many problems and grievances with the new insurance. The union claims that the Teamster insurance is less expensive.

City Position - The city proposes retaining the current insurance. It claims that it has a quality health care program due to the efforts of the Cost Containment Committee. The city notes that the committee consists of representatives of each bargaining unit including Local 20. It states that under the guidance of the committee it moved from traditional third-party health care administrator to the direct purchase of services from providers and formed the Cooperative Health Network. The city asserts that the union withdrawal from the plan would cause irreparable harm. The city contends that the cost of the Cooperative Health Network (CHN) plan is less than the Teamster plan.

Analysis - The Factfinder recommends that the union's demand to switch to the Teamster plan be granted. First, although the total costs of the two plans are not entirely clear, the Teamster plan appears to be slightly less costly. Second, the recommendation to switch to the IBT plan is not predicated on the quality of the CHN plan or its administration but it is part of an attempt to resolve a labor dispute through the factfinding process. Third, the Factfinder does not believe that the loss of the members of Local 20 would cause irreparable harm to CHN.

The Factfinder feels that if the union wishes to be in the Teamster plan, it cannot expect the city to pay more for the plan than it pays for the CHN plan. He, therefore, recommends that the city's contribution be restricted to the amount paid by the city for family, couple, or single coverage under the CHN plan.

**Recommendation -**

**A. Contribution:**

1. Effective on the first day of the first month thirty (30) days after acceptance of the Factfinder's report, the Employer will contribute to Teamsters Local No. 20 Union Insurance Health and Welfare Plan and Trust each month, the following amounts for the following plans for each employee who worked at least one (1) day during the month:

**Plan 9 Tier II:**

Single	172.95	Dental	29.76
Employee & 1	302.95	Prescription	41.26
Family	417.00	Vision	14.41

Payment of the sum due, together with a list of the names and social security numbers of employees for whom payment is made, shall be forwarded to Teamsters Local No. 20 Health and Welfare Plan and Trust by the fifteenth (15th) of the current month.

2. Any increases in the amount of Health and Welfare contributions to be paid during the term of this Agreement, due to a rise in health costs or otherwise, which does not increase the amount of Health and Welfare coverage for the employees, shall be paid for by the Employer, but in no event shall the contribution rate exceed the contribution rate of the City for non-Trust Fund employees for such type of coverage.

3. By the execution of this Agreement, the Employer authorizes the Employer Associations who are parties hereto to enter into an appropriate Trust Agreement necessary for the administration of such Fund and to designate the Employer Trustee under such Agreement, hereby waiving all notice thereof and ratifying all actions already taken, including rules and regulations adopted by such Trustees, or to be taken by such Trustees, within the scope of their authority.

7) Section 2121.100 - Public Employees Retirement System of Ohio -

The current contract establishes a pension pick-up system and requires the city to pay 1% of the employee's 8.5% required contribution.

Union Position - The union seeks to increase the city's pension contribution. It proposes that the city pay an additional 2.5% in 1997, 1998, and 1999 resulting in the city paying 7.5% by 1999.

City Position - The city wishes to retain the current contract language.

Analysis - The Factfinder believes that an increase in the city's pension contribution is appropriate. The city accepted Factfinders' recommendations in disputes with IAFF Local 92, the Toledo Police Patrolman's Association, and the Toledo Police Command Officers Association that increased its pension contribution for those units by a total of 3% over three years. The Factfinder in this case sees no reason why the city should not do the same in the instant case. The cost of this item, however, must be considered in conjunction with the other economic items requested by the union.

Recommendation - The Factfinder recommends the following contract language:

The city shall pay an additional 1% of each employee's pension retroactive to January 1, 1997 provided such payment is permitted by relevant laws and regulations and by 1% effective January 1, 1998 and January 1, 1999.

8) Section 2121.103 - Paid Holidays, Subsections (f) and (g) - The current contract establishes 15 paid holidays. Six of the holidays are designated as major holidays and employees are not scheduled to work. The city schedules a make-up day on the Saturday after the holiday and employees receive 12 hours of pay for working on the make-up day. The nine remaining holidays are called minor holidays. Employees are required to work on the minor holidays and receive 12 hours per day for a total of 108 hours. The 108 hours are referred to as Holiday Bonus Comp Time (HBCT). Employees can take the hours as pay or time-off.

**City Position** - The city seeks a significant revision of Section 2121.103. It wishes to reduce the number of holidays to 14 -- six major holidays and eight minor holidays. Employees would continue to be scheduled off on the six major holidays. However, under the city's proposal it will determine whether a make-up day is scheduled. If an employee works on a make-up day, he or she would get 12 hours of pay. In addition, the city would decide whether employees will work on the eight minor holidays. If an employee is required to work on a minor holiday, he or she will get holiday pay plus 12 hours of HBCT. Finally, if no make-up day is scheduled for a major holiday or a minor holiday is not worked, employees will receive four hours of extra straight time pay the next time the route is collected.

The city argues that its holiday proposal must be part of its effort to save \$650,000. It points out that HBCT costs \$260,000 per year and that each minor holiday not worked saves \$30,000. The city notes that working make-up Saturdays for major holidays costs \$130,000 per year and cutting make-up days, except for the summer holidays and Christmas, would reduce overtime by \$50,000.

The city acknowledges that its proposal does reduce employees earnings by \$1400. It indicates that employees will continue to work at least four make-up holidays. The city observes that employees will receive four hours of extra pay the next time a route is collected after a holiday that is not worked to reflect the extra refuse to be collected. The city also maintains that the additional time off work under its proposal has some value to employees.

**Union Position** - The union demands an increase in HBCT to 14 hours per day for a total of 126 hours. It contends that HBCT has been in the contract for 20 years. The union observes that solid waste supervisors in Local 2058 get 126 hours of HBCT. It stresses that no other employees were required to give up holidays in this round of bargaining.

**Analysis** - The Factfinder recommends that current contract language be retained. Employees have received HBCT for many years and it has been an accepted and understood part of their compensation. The changes which the city seeks would result in a significant cut in employees' earnings which other bargaining units have not been asked to accept. The union has agreed to changes in the Solid Waste divisional agreement which the city's negotiators insisted upon during mediation. The Factfinder believes that alterations in HBCT sought by the city are not warranted even considering the city's financial concerns.

**Recommendation** - The Factfinder recommends current contract language.

9) **Section 2121.109 - Wage Rates, Premiums and Allowances** - The current contract specifies salaries for 15 salary groups and for 25 red-circle groups. It also indicates that employees hired after January 1, 1994 start at 75% of the full rate for a classification and reach the full rate during the fourth year of employment.

**Union Position** - The union proposes a three-year agreement. Its demands 4% increases in the base rates for all salary groups effective January 1 of 1997, 1998, and 1999. The union argues that its demand is supported by comparisons to wages paid to similar workers in other Ohio cities. It submitted the wage rates for 1995-97 for several major cities for 29 job titles in water reclamation, 12 job titles in landfills, and 7 job titles in solid waste. The union also offered the wage rates for several job titles in water reclamation in the City of Oregon.

The union provided comparative wage data for a broader group of cities. It submitted water reclamation salaries for 8 job titles. The data were drawn from the national **Wastewater Personnel Salary Survey**.

The union maintains that comparisons to similar workers in the private sector also support its position. It offered the collective bargaining agreement between the International Union of Operating Engineers and the Ohio Contractors Association

covering equipment operators such as those employed in the landfill. The union supplied the contract between the Toledo Electrical Contractors Association and IBEW, Local 8 in support of the wage demands of certain classifications in water reclamation.

The union claims that the city can afford its wage demand. It maintains that the general fund contains sufficient resources. The union stresses that a significant number of employees in the bargaining unit are not paid from the general fund.

The union contends that its wage demand is justified by its agreeing to efficiencies and cost savings in the Division of Water Reclamation. It relies on the water reclamation efficiencies update prepared by Robert Stevenson, the Acting Commissioner of Treatment Services, dated February 7, 1997 which reports that the savings for 1996 were \$2.4 million.

The union emphasizes that it is entitled to the same increase as AFSCME Local 7. It points out that Local 7 received wage and pension contribution increases totaling 15.9% over three years. The union notes that it has received exactly the same increases as Local 7 since 1988.

City Position - The city proposes a two-year agreement. It offers to increase the base rates 1% effective with the first full pay period January 1, 1997; 3% effective with the first full pay period after July 1, 1997; and 3% effective with the first full pay period after January 1, 1998 plus an additional 1% pension contribution.

The city argues that wage comparisons with other cities support its wage offer. It presented the weighted average annual cost per employee in five major Ohio cities -- Akron, Cincinnati, Cleveland, Columbus, and Dayton. The city includes in the annual cost basic wages, health insurance, pension contributions, worker compensation contributions, and various incentive payments. It stresses that the comparison shows that Toledo exceeds the average by more than \$4000.

The city contends that its offer is consistent with settlements in the major Ohio cities. It points out that the average settlement in 1997 was 2.92%. The city notes that

the only settlement to date for 1998 and 1999 was 3% and 3.5% in Akron. It claims that since compensation in Toledo exceeds the average for the other cities, the increase in wages should be somewhat less than the average.

The city emphasizes that its proposal is consistent with the wage settlements with other city bargaining units. It points out that IAFF Local 92, the Toledo Police Patrolman's Association, and the Toledo Police Command Officers Association all accepted 3% wage increases for each year in three-year agreements plus total increases in the pension contribution of 3% over three years. The city claims that while the members of Local 20 are required to work hard, they do not risk life and limb as do the members of the safety forces.

The city charges that the financial impact of the union's economic package would be devastating. It asserts that the union's package would cost the city an addition \$7 million over three years. The city states that the general fund is in a precarious position at the present time and that income tax revenue is growing at only 3.4% per year. It notes that the renewal of a .75% temporary income tax is on the ballot in the fall of 1997 and that it is one of only 17 of the 149 cities in Ohio with a Moody's bond rating of Baa or lower. The city stresses that the Factfinders in the other disputes recognized the serious financial situation it faces.

Analysis - The Factfinder recommends that wages be increased by 3% in 1997, 1998, and 1999. The SERB Quarterly for the first quarter of 1997 indicates that wage settlements in 1996 were 3.29% state-wide, 3.14% in the Toledo region, and 3.37% for cities. The 1% pension contribution recommended above provides an additional boost in compensation which makes the recommended increase very close to the averages for other increases around Ohio.

The Factfinder does not believe that the extensive comparable wage data justifies departing from the pattern of settlements in Ohio. While wages in the city in some instances may vary from those paid elsewhere, wages are only one aspect of

compensation. Furthermore, the current position of wages is the product of many years of bargaining and trade-offs made in bargaining.

The recommended wage increases are strongly supported by the settlements with the other units. The IAFF, the Toledo Police Patrolman's Association, and the Toledo Police Command Association all accepted 3% wage increases. The Factfinder does not believe that Local 20 should be treated differently.

The Factfinder recognizes that Local 7 received a substantially greater increase than what the Factfinder is recommending. However, the Factfinder in the three other cases concluded that the recommendation in the Local 7 case was an aberration and did not constitute a pattern or precedent for the cases before them. Under these circumstances, this Factfinder cannot ignore the 9% over three years which the other Factfinders recommended and was accepted by the parties.

The Factfinder appreciates the financial concerns of the city. After considering the detailed presentation by the city regarding its finances, he has concluded that it has the ability to pay the recommended wage increases. This is not to say that the parties do not need to work together to improve efficiency in order to improve the city's financial situation and to avoid cuts in services and the layoff of employees.

**Recommendation** - The Factfinder recommends the following contract language:

The base wages rates shown in this section shall be raised 3% retroactive to January 1, 1997 and by 3% effective January 1, 1998 and January 1, 1999.

10) **Section 2121.110 - Shift Premium** - The current contract establishes a shift premium of \$.40 per hour for the second shift and \$.50 per hour for the third shift.

Union Position - The union seeks to increase the second shift premium to \$.65 per hour and the third shift premium to \$.75 per hour. It maintains that the premiums ought to be increased since they have been increased by only \$.10 per hour since 1977.

City Position - The city wishes to retain current contract language. It points that the shift differentials for Local 2058 and Local 7 are only \$.40 and \$.50 per hour and \$.35 and \$.40 per hour for the police unit. The city notes that Cincinnati has no shift differentials and the average shift differentials for Akron, Cleveland, Columbus, and Dayton are less than those currently paid by the city.

Analysis - The Factfinder finds no basis to recommend an increase in the shift differentials.

Recommendation - The Factfinder recommends current contract language.

11) Section 2121.111 - Shift Saturday - Sunday - Holiday Pay - The current contract provides for a Saturday shift premium of \$.35 per hour and a Sunday shift premium of \$.60 per hour. It also requires 12 hours of straight-time pay for working Christmas or New Year's Eve and ten hours for working a major holiday.

Union Position - The union seeks to increase the Saturday premium to \$.60 per hour and the Sunday premium to \$.80 per hour and to increase the pay for Christmas and New Year's Eve to 14 hours and the major holidays to 12 hours.

City Position - The city wishes to maintain the current contract language. It indicates that the Saturday and Sunday differentials for Local 2058 and Local 7 are the same as for Local 20 and the safety forces have no Saturday or Sunday differentials. The city asserts that its differentials are in line with other major cities in Ohio.

Analysis - The Factfinder finds no basis to recommend an increase in the Saturday and Sunday differentials.

Recommendation - The Factfinder recommends current contract language.

12) Section 2121.114 - Longevity - The current contract establishes longevity pay after five years of service for employees hired prior to July 1, 1982. It is paid in a separate check in the first pay period in December.

Union Position - The union proposes a number of changes in longevity. First, it proposes that employees receiving longevity have it rolled into their base rate. Second, the union seeks that employees with five years of service who are not eligible for longevity receive a lump sum payment of \$350 on the first payday in December of 1997, 1998, and 1999. Third, the union demands that when an employee entitled to longevity retires or leaves the city, the bargaining unit employee with the most city-wide seniority become eligible for longevity.

City Position - The city contends that the current contract language ought to be maintained. It points out that the longevity received by refuse collectors hired prior to July 1, 1982 ranges from \$208 for a five-year employee to \$833 for a 20-year employee compared to an average of \$205 and \$442 for Akron, Cincinnati, Cleveland, Columbus, and Dayton. The city stresses that there is no justification for restoring longevity for employees hired after July 1, 1982 given that they have not had it for 15 years.

Analysis - The Factfinder cannot recommend the extension of longevity to more employees. The union agreed to its elimination for new employees in 1982 and there appears to be nothing to require its reinstatement at this time.

Recommendation - The Factfinder recommends current contract language.

13) Section 2121.117 - Weekly Unlimited Refuse Pay - The current contract requires the city to pay refuse drivers, collectors, and dispatchers and landfill employees a bonus or incentive for providing weekly unlimited refuse collection. The incentive provided for in the collective bargaining agreement is \$.80 per hour but was increased by 6 1/2 cents per hour in 1994 when the number of crews was reduced. It is paid to employees on vacation but not on other paid time off.

Union Position - The union proposes two changes. First, it seeks to increase the amount of the weekly unlimited incentive to \$1.25 per hour. Second, the union wishes it to be paid to employees who are off work as a result of a work injury.

The union argues that the amount of weekly unlimited refuse pay should be increased. It points that on January 1, 1977 the incentive was increased to \$.60 reflecting a reduction in the number of crews by two but that the incentive does not reflect a further reduction of 12 crews which should translate to a \$.25 per hour increase in the payment. The union indicates that adding this amount to \$1.2294 per hour -- the current incentive adjusted for inflation -- results in an incentive of \$1.45 per hour.

City Position - The city argues that the current weekly unlimited incentive should be maintained. First, it claims that the pick-ups are no longer unlimited because of diminished landfill space, recycling, and the restriction on the collection of yard waste. Second, the city indicates that no other major city in Ohio offers similar compensation. Third, it states that an increase in the payment will occur pursuant to Section 36 of the Refuse Divisional Agreement which provides for increases in the incentive if and when additional crews are reduced. Fourth, the city stresses that no increase in the pay is due for the reduction of 12 crews because several contracts were negotiated since that time and the issue is now moot.

The city rejects the union's demand to pay the incentive to employees off due to an injury. It claims that the refuse employees take an extraordinary number of injury pay days. The city maintains that it would be counter-productive to reward "no-fault" injuries with incentive pay.

Analysis - The Factfinder sees no basis to recommend the changes sought by the union. First, the data on tonnage do not justify to the Factfinder an increase in the incentive. Second, to the extent that a reduction in the number of crews occurs, the Divisional Agreement has a procedure for adjusting the incentive rate. Third, the incentive which is now paid appears to be unique among major Ohio cities.

**Recommendation** - The Factfinder recommends that current language be maintained.

14) **Section 2121.122 - Subcontracting** - The current contract restricts the city from subcontracting unless there are excessive costs compared to subcontractors who are required to pay statutory prevailing wages. It requires the city to discuss with the union any work to be subcontracted. The contract prohibits layoffs as a direct result of subcontracting.

**City Position** - The city proposes a number of changes in current contract language. The changes generally loosen the restrictions on subcontracting. The city further seeks to eliminate the provision that would bar the layoff of employees as a result of subcontracting.

**Union Position** - The union seeks to retain current contract language.

**Analysis** - The Factfinder recognizes that it is good management for the city to seek to improve efficiency and to seek out savings. He does not, however, believe that the city should rush into subcontracting arrangements which might not prove beneficial in the long run. The Factfinder feels that the process followed in the Water Reclamation Division, where it appears that the parties were able to accomplish considerable savings, should serve as a model for improving efficiency in the Solid Waste Division.

**Recommendation** - The Factfinder recommends the current contract language be retained and the following memorandum of understanding be included in the contract:

Teamsters Local 20, the employees of the Solid Waste Division who are members of Teamsters Local 20, and the management and administration of the Solid Waste Division hereby commit to a mutual effort to improve the quality of services provided to the Citizens of Toledo.

First, the parties commit to use their best efforts to develop a program of labor/management cooperation during the life of this labor agreement designed to improve the performance and efficiency of the Division. The parties pledge to meet within 30 days of ratification and to identify the

means of implementing their program with the assistance of agencies such as the FMCS, and the Northwest Ohio Center for Labor Management Cooperation or other agreed upon sources. The parties will meet regularly thereafter to explore all means toward improved performance and efficiency.

Second, the parties agree to cooperate in a study to be conducted by the Citizens for Effective Government (CEG) to be completed by March 1, 1998.

Each of the parties retain all rights under their collective bargaining agreement and the law. The City agrees it will not seek or act upon requests for proposals for privatization of its Solid Waste Division until after March 1, 1998 or receipt of the CEG study, whichever is later.

15) Section 2121.129 - Termination - The current contract was effective January 1, 1994 and expired December 31, 1996.

Union Position - The union demands a three-year agreement effective January 1, 1997 and expiring December 31, 1999.

City Position - The city offers a two-year agreement effective January 1, 1997 and expiring December 31, 1998.

Analysis - The Factfinder recommends a three-year agreement. The majority of collective bargaining agreements in Ohio are for three years. The agreements between the city and AFSCME Local 7, the IAFF Local 92, the Toledo Police Patrolman's Association and the Toledo Police Command Officers Association are all for three years. The Factfinder sees no reason to depart from this pattern in the instant case.

Recommendation - The Factfinder recommends the following contract language:

This agreement shall be effective January 1, 1997, and shall remain in full force and effect through December 31, 1999, and thereafter until terminated, amended, or repealed pursuant to Chapter 4117 of the Ohio Revised Code.

16) Memorandum of Understanding - Job Security - The current contract does not include a memorandum of understanding dealing with job security.

Union Position - The union proposes a memorandum of understanding that would bar any reduction in the workforce during the term of the agreement.

City Position - The city opposes the proposed memorandum.

Analysis - The Factfinder cannot recommend the union's demand. He believes that the proposed memorandum could place an inappropriate constraint on the efforts of the parties to improve efficiency and to implement the results of the CEG study recommended above.

Recommendation - The Factfinder recommends that union's demand for a memorandum on job security be denied.

  
Nels E. Nelson  
Factfinder

May 27, 1997  
Russell Township  
Geauga County, Ohio